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10/010,042	12/06/2001	Geoffrey H. Moore	213900	8527

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EXAMINER

HECKENBERG JR, DONALD H

ART UNIT PAPER NUMBER

1722

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DATE MAILED: 06/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/010,042

Applicant(s)

MOORE, GEOFFREY H.

Examiner

Donald Heckenberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11 is/are rejected.
- 7) ☒ Claim(s) 12-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

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1. The continuity data at the beginning of the specification needs to be updated to reflect that the parent application (U.S. App. No. 09/413,016) has issued as U.S. Pat. No. 6,364,649.

2. The IDS filed on December 6, 2001 lists a Finish Reference: FI 9000791. This reference was not considered in the parent application as there was never a copy of this reference supplied, as thus the cited reference was non-compliant. See 37 CFR § 1.98(a)(2)(i). If Applicant wants this reference considered, a copy of this reference must be submitted.

3. The abstract of the disclosure is objected to because it must be less than 150 words. Correction is required. See MPEP § 608.01(b).

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Hsu (U.S. Pat. No. 4,954,060).

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Hsu discloses an apparatus which operates such to receive a curable material during a forming stage and a curing stage. The apparatus comprises a core (12) with an associated core rotation means for rotating the core about an axis of rotation (see column 5, line 65 - column 6, line 10). The core is provided with an outer permeable surface (14) for receiving and retaining the forming material (see figure 1). A vacuum means is provided in communication with a fluid communication means for receiving air flow from the outer permeable surface (column 8, lines 11-29). The apparatus is further provided with a curing means (30) for heating the curable material.

Hsu further discloses the vacuum means to draw an air flow through the fluid communication means, the outer permeable surface of the core, and the forming material retained on the core during forming of the curable material retained on the core (see column 7, lines 13-27). The vacuum means further draws air through the outer permeable surface and the fluid communication means of the core during curing of the material on the core (column 7, lines 28-38). As the material only becomes cured (32) when the heated air is drawn through, the air drawn through during the forming stage when the material is first retained on the core must inherently be below the curing temperature of the material.

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It is noted that claim 11 recites several features specific to the intended use of the apparatus. For example, the material being formed into a desired configuration during the forming stage and being heated during the curing stage to harden the selected material in the desired configuration. It is well settled that the intended use of an apparatus is not germane to the issue of patentability of the apparatus. If the prior art structure is capable of performing the claimed use, then it meets the claim limitation(s). In re Casey, 370 F.2d 576, 580 152 USPQ 235, 238 (Cust. & Pat. App. 1967); In re Otto, 312 F.2d 937, 939, 136 USPQ 458, 459 (Cust. & Pat. App. 1963). As described above Hsu discloses all of the structural features of the apparatus recited in claim 11 of the instant application. Accordingly, Hsu anticipates this claim.

6. Claims 12-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

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The prior art of record does not teach or suggest an apparatus for receiving a curable material, the apparatus comprising a core mounted for rotation about an axis of rotation, the core having an associated core rotation means for rotating the core about an axis of rotation, an outer permeable surface for receiving and retaining the curable material, and fluid communication means for receiving air flow from the outer permeable surface; a curing means for heating the curable material to at least a curing temperature of the material; a vacuum means in fluid communication with the fluid communication means of the core for drawing a forming core air flow through the fluid communication means, the outer permeable surface of the core, and the curable material retained on the core during forming of the curable material retained on the core, the forming core air flow having a temperature below the curing temperature, and drawing a curing core air flow through the outer permeable surface and the fluid communication means of the core and the selected curable material retained on the core during curing of the curable material retained on the core; the curing means further including a curing station for supplying a curing air supply around the core, and air heating means for heating the curing air supply to at least the curing temperature; and the vacuum means further including a forming

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air outlet for receiving the forming core air flow from the fluid communication means, a recirculation outlet for receiving the curing core air flow from the fluid communication means and for recirculating the curing core air flow back to the curing station, and a valve means for controlling fluid communication between the forming air outlet and the fluid communication means and for controlling fluid communication between the recirculation outlet and the fluid communication means as recited in claim 12.

The closest prior art disclosed by Hsu is described above. Hsu does fails to teach or suggest the vacuum means to comprise the combination of features recited in claim 12.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Heckenberg whose telephone number is (703) 308-6371. The examiner can normally be reached on Monday through Friday from 9:30 A.M. to 6:00 P.M.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at (703) 308-0457. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 for responses to non-final action,

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and 703-872-9311 for responses to final actions. The unofficial  
fax phone number is (703) 305-3602.



Donald Heckenberg  
June 10, 2003



JAMES P. MACKEY  
PRIMARY EXAMINER

6/11/03